

AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1285

Introduced by Senator Corbett

February 19, 2008

~~An act to add Section 5096.517 to the Public Resources Code, relating to state lands, and declaring the urgency thereof, to take effect immediately. An act to amend Section 5096.501 of, and to add Section 5096.517 to, the Public Resources Code, relating to state lands.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1285, as amended, Corbett. Resource conservation lands: acquisition.

Existing law authorizes various agencies to acquire land for purposes related to conservation. Existing law requires an acquisition agency, as defined, prior to approving the acquisition of conservation land, as defined, where an agency proposes to spend more than \$25,000,000 of state funds, to contract for at least one independent appraisal of the fair market value of the land. *Existing law defines "acquisition agency" as the Wildlife Conservation Board or the State Coastal Conservancy.*

This bill would instead define "acquisition agency" as the Department of Parks and Recreation, the Wildlife Conservation Board, or a state conservancy.

Existing law requires the independent appraisal to be conducted by a qualified member of the Appraisal Institute and reviewed by a qualified independent appraiser retained by the acquisition agency for this purpose. The acquisition agency is required to make available for public review, among other things, the independent appraisal review, a summary of the basis for the recommendation of approval for the

acquisition of the land, and any relevant environmental studies, documents, or other information.

~~This bill would require the Resources Agency, in consultation with the Wildlife Conservation Board and the State Coastal Conservancy Department of General Services, in consultation with the Department of Parks and Recreation, the Wildlife Conservation Board, and state conservancies, to develop and adopt standards with respect to the acquisition of conservation lands concerning the appraisal process, public availability of appraisal information, and tax consequences valuation for purposes of a charitable contribution.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5096.501 of the Public Resources Code
2 is amended to read:

3 5096.501. For purposes of this chapter, the following terms
4 have the following meanings:

5 (a) “Acquisition agency” means ~~the Wildlife Conservation Board~~
6 ~~or the State Coastal Conservancy Department of Parks and~~
7 ~~Recreation, the Wildlife Conservation Board, or a state~~
8 ~~conservancy.~~

9 (b) “Conservation lands” means any land or interest therein to
10 be acquired by an acquisition agency, or that is owned by the state
11 and under the jurisdiction of the Wildlife Conservation Board, the
12 State Coastal Conservancy, the Department of Fish and Game, or
13 the Department of Parks and Recreation.

14 (c) “Major acquisition” means an acquisition where an agency
15 proposes to spend more than twenty-five million dollars
16 (\$25,000,000) of state funds.

17 SECTION 1.

18 SEC. 2. Section 5096.517 is added to the Public Resources
19 Code, to read:

20 5096.517. ~~The Resources Agency Department of General~~
21 ~~Services, in consultation with the Wildlife Conservation Board~~
22 ~~and the State Coastal Conservancy, Department of Parks and~~
23 ~~Recreation, the Wildlife Conservation Board, and state~~

1 *conservancies*, shall develop and adopt standards for all of the
2 following with respect to the acquisition of conservation lands:

3 (a) Standards for the appraisal of resource conservation
4 acquisitions. The standards shall include guidelines for all of the
5 following:

- 6 ~~(1) Commissioning the appraisal.~~
- 7 ~~(2) Qualifications of the appraiser.~~
- 8 ~~(3) Scope of the analysis and level of information provided in~~
9 ~~the appraisal report.~~
- 10 ~~(4) Timing of the appraisal in the transaction process.~~
- 11 ~~(5) Use of government and conservation transactions as~~
12 ~~comparable sales.~~
- 13 ~~(6) Addressing assumptions about development potential.~~
- 14 ~~(7) Information that shall be provided to the appraiser.~~
- 15 ~~(8) Valuation of conservation easements.~~
- 16 ~~(9) Appraisal review.~~
- 17 ~~(10) Independence of the appraiser.~~

18 ~~(b) Standards to ensure the independence of the appraisal~~
19 ~~process, including, but not limited to, all of the following:~~

20 ~~(1) Revising the existing administrative structure for the carrying~~
21 ~~out of the appraisal function to provide greater independence and~~
22 ~~promote objectivity of the appraisal function.~~

23 ~~(2) Placing various components of the appraisal function within~~
24 ~~the Department of General Services.~~

25 ~~(3) Contracting with an organization with appraisal expertise~~
26 ~~for the development of recommendations for the specific mechanics~~
27 ~~regarding how the appraisal function would operate in the~~
28 ~~Department of General Services.~~

29 ~~(c) Standards to increase the public availability of appraisal~~
30 ~~information, including the expansion of existing public disclosure~~
31 ~~requirements and the improvement of the legislative notification~~
32 ~~process for better oversight.~~

33 ~~(d) Standards to avoid unwarranted tax consequences, including~~
34 ~~requiring the state-approved appraisal value used to support the~~
35 ~~purchase price in a state-funded resource conservation acquisition~~
36 ~~to be the basis, with appropriate adjustments, in any related~~
37 ~~evaluation by the Franchise Tax Board of the value of a charitable~~
38 ~~contribution claimed by the seller.~~

39 ~~SEC. 2. This act is an urgency statute necessary for the~~
40 ~~immediate preservation of the public peace, health, or safety within~~

1 the meaning of Article IV of the Constitution and shall go into
2 immediate effect. The facts constituting the necessity are:

3 In order to ensure that taxpayers receive full value for public
4 funds that are used for the acquisition of conservation lands, it is
5 necessary that this act take effect immediately.

6 (1) *Qualifications of the appraiser.*

7 (2) *Appraisal methodology to be used.*

8 (3) *Scope of the analysis and level of information provided in*
9 *the appraisal report, including, but not limited to, both of the*
10 *following:*

11 (A) *Verifiable data on the development potential of the land,*
12 *such as what would be required for a development project to*
13 *proceed.*

14 (B) *Reports documenting suspected environmental*
15 *contamination.*

16 (4) *Reference to comparable government and conservation*
17 *transactions when available.*

18 (5) *Age of the appraisal or appraisal update to be reviewed by*
19 *the department to keep an appraisal from being over one and*
20 *one-half years old.*

21 (6) *Appraisal of conservation easements using the Appraisal*
22 *Institute standards as guidelines once they are adopted.*

23 (b) *Standards for the release of the appraisal review, including,*
24 *but not limited to, both of the following:*

25 (A) *Guidelines to state resource agencies for public disclosure*
26 *requirements.*

27 (B) *Improvement of the legislative notification process for better*
28 *oversight, including when requested by the Legislature, provision*
29 *of a copy of the appraisal review for a major acquisition before*
30 *the close of escrow.*

31 (c) *The Franchise Tax Board shall use the state-approved*
32 *appraisal value or the value of an appraisal conducted by a*
33 *qualified member of the Appraisal Institute, who is licensed*
34 *pursuant to Part 3 (commencing with Section 11300) of Division*
35 *4 of the Business and Professions Code, which is within 10 percent*
36 *of the state-approved appraisal, to calculate the appropriate value*
37 *of a charitable contribution claimed by the seller.*